

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STACEN OUTHOUMMOUNTRY,

Plaintiff,

vs.

PASCUA, et al.,

Defendants.

1:22-cv-00806-GSA-PC

**ORDER FOR CLERK TO LODGE THE
COMPLAINT IN THIS ACTION AS AN
AMENDED COMPLAINT 1:22-CV-
00104-SAB-PC
(ECF No. 1)**

**ORDER FOR CLERK TO
ADMINISTRATIVELY CLOSE THIS
CASE**

Stacen Outhoummountry (BI-0775) (“Plaintiff”), a state prisoner proceeding *pro se*, submitted a complaint to the court on June 30, 2022, which was opened by the Clerk as the present case no. 1:22-cv-00806-GSA-PC. (ECF No. 1.) However, pursuant to Plaintiff’s notice to the Court filed on July 21, 2022 in case no. 1:22-cv-00104-SAB-PC (Outhoummountry v. Pascua), it appears that Plaintiff submitted this complaint to the Court to be filed as an amended complaint in case no. 1:22-cv-00104-SAB-PC. (See ECF No. 27 filed in case no. 1:22-cv-00104-SAB-PC.)

A review of the docket for case 1:22-cv-00104-SAB-PC shows that Stacen Outhoummountry (BI-0775) filed the complaint commencing the case on December 22, 2021. (ECF No. 1 filed in case no. 1:22-cv-00104-SAB-PC.) On April 21, 2022, the Court screened the complaint and ordered Plaintiff to file an amended complaint within 30 days. (ECF Nos. 22, 26

1 filed in case no. 1:22-cv-00104-SAB-PC.) Plaintiff failed to file a timely amended complaint,
2 and the Court issued two orders for Plaintiff to show cause why the case should not be dismissed
3 for his failure to prosecute and failure to comply with a Court order. (ECF Nos. 22, 26 filed in
4 case no. 1:22-cv-00104-SAB-PC.) On July 21, 2022, Plaintiff notified the Court that he had
5 submitted the amended complaint to the Court and it had been filed using case no. 1:22-cv-00806-
6 GSA-PC. (ECF No. 27 filed in case no. 1:22-cv-00104-SAB-PC.)

7 The Court has reviewed the complaint for this action and finds that it contains one of the
8 same defendants and makes allegations and claims found in the Second Amended Complaint for
9 case no. 1:22-cv-00104-SAB-PC. Both complaints arose from events at North Kern State Prison
10 in Delano, California, when Plaintiff was incarcerated there in January 2019 concerning
11 Plaintiff's allegations of inadequate medical care. Based on these facts, the Court finds that
12 Plaintiff's complaint for the present action should be treated as an amended complaint for case
13 no. 1:22-cv-00104-SAB-PC.¹

14 Accordingly, the Clerk of Court is DIRECTED to:

- 15 1. Lodge the complaint for this action as an amended complaint in case no. 1:22-cv-
16 00104-SAB-PC; and
- 17 2. Administratively close this case.

18
19 IT IS SO ORDERED.

20 Dated: July 22, 2022

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

21
22
23
24
25
26
27 ¹ "Plaintiffs generally have 'no right to maintain two separate actions involving the same subject matter at
28 the same time in the same court and against the same defendant.'" Adams v. California Dept. of Health Services,
487 F.3d 684, 688 (9th Cir. 2007) (quoting Walton v. Eaton Corp., 563 F.2d 66, 70 (3d Cir.1977) (en banc), cited
with approval in Russ v. Standard Ins. Co., 120 F.3d 988, 990 (9th Cir.1997)); see also Curtis v. Citibank, N.A.,
226 F.3d 133, 138–39 (2d Cir. 2000); Serlin v. Arthur Andersen & Co., 3 F.3d 221, 223–24 (7th Cir.1993)).